

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>JULIE A. BOWMAN</b>	)	
Claimant	)	
	)	
VS.	)	
	)	
<b>K-STATE STUDENT UNION, INC.</b>	)	
Respondent	)	Docket No. 1,015,775
	)	
AND	)	
	)	
<b>TWIN CITY FIRE INSURANCE CO.</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent and its insurance carrier (respondent) request review of the December 22, 2005 preliminary hearing Order entered by Administrative Law Judge Bryce D. Benedict.

**ISSUES**

The Administrative Law Judge (ALJ) ordered respondent to provide claimant with medical treatment with Dr. Florin O. Nicholae until he certifies claimant as having reached maximum medical improvement (MMI). The ALJ also authorized Dr. Nicholae to make referrals except to rehabilitation hospitals or for treatment of a mental health problem unless such care is authorized by the ALJ.

Respondent denies that claimant's current complaints and need for treatment arose out of and in the course of her employment with respondent. Respondent claims that claimant's current condition was caused by a subsequent aggravation at her current employer or by an out-of-town trip she took in March 2005 to visit her hospitalized father.

Claimant argues that the ALJ correctly found that her symptoms arose out of and in the course of her employment with respondent and, therefore, her need for medical treatment is compensable.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the whole evidentiary record filed herein, the Board makes the following findings of fact and conclusions of law:

Claimant injured her low back in June 2003 and again in August 2003 while working as a janitor for respondent. She stated that she had pain in her low back into her right hip, down her leg and into the knee. Respondent authorized treatment with Dr. Michael Schmidt, who referred her to Dr. Nicholae. In February 2005, claimant underwent radiofrequency ablation procedures, first on the left and then on the right, performed by Dr. Nicholae. Following those procedures, claimant had about an 80 percent relief from her symptoms. She continued to feel this relief until March 2005, when she traveled by plane to Tennessee and spent ten days with her father, who had been hospitalized and was on a ventilator. Claimant testified that the sitting and standing at the hospital caused her back pain to increase.

When claimant returned from her visit with her father, she was unable to get any medication for pain. She called Dr. Nicholae's office to ask for a repeat of the radiofrequency ablation procedures, but the procedures were not authorized. In April 2005, a preliminary hearing was held wherein claimant requested designation of her personal physician, Dr. Scott Coonrod, as an authorized treating physician to provide her with prescriptions for medication. Respondent opposed the request, arguing that Dr. Nicholae was claimant's authorized treating physician and that he had not prescribed medication. In an Order dated April 28, 2005, the ALJ denied claimant's request to designate Dr. Coonrod as an authorized treating physician.

After the April 2005 preliminary hearing, respondent sent claimant back to see Dr. Schmidt, even though Dr. Schmidt had released her as having reached MMI in June 2004. Dr. Schmidt prescribed Mobic and Ultram for claimant, as well as at least one prescription for Lortab. Dr. Schmidt also, again, released claimant from treatment as having reached MMI.

On September 15, 2005, claimant terminated her employment with respondent, claiming that she was being sexually harassed and also that her supervisor had moved her to an area of the building doing work that caused an increase in her symptoms. On September 27, 2005, claimant began working for the Fairfield Inn in the housekeeping department. After two to three weeks, however, she started having increased problems with her back and was transferred to the laundry. The job in the laundry did not require bending, and her symptoms decreased.

In August 2005, claimant filed another Application for Preliminary Hearing, asking the ALJ to authorized treatment by Dr. Nicholae, including radiofrequency ablation procedures. A preliminary hearing was held on December 21, 2005. Dr. Nicolae's report dated September 22, 2005, entered as an exhibit, indicated that radiofrequency ablation

procedures provide relief for a period averaging six months to one year. Dr. Nicholae also indicated that if authorized, he would consider "performing the radiofrequency procedures on the left and on the right as we did in February of 2005."<sup>1</sup> This report was generated before claimant began her employment at Fairfield Inn.

At the December 2005 preliminary hearing on that request, respondent argued that claimant's request for treatment by Dr. Nicholae should be denied, claiming that (1) claimant had a subsequent intervening injury either during the visit with her father, after the change in the area she worked at respondent, or after beginning work for Fairfield Inn; and (2) claimant had been released from treatment as having reached MMI by Dr. Schmidt in June 2004 and again in May 2005.

Claimant, however, argues that all her symptoms stemmed from her 2003 injuries and that there was no intervening accident. She contends that the increases in symptoms that occurred during her visit to her father and at her work at Fairfield Inn were "temporary in nature."<sup>2</sup> Claimant asserts that her current need for medical treatment is a result of the relief from the radiofrequency ablation procedures "wearing off over time."<sup>3</sup>

After reviewing the record compiled to date, the Board concurs with claimant and the ALJ's conclusion that claimant's current complaints and need for treatment are a direct and natural consequence of her injuries suffered while working with respondent. Her testimony is supported by the treating physician's records, in that Dr. Nicholae indicates that the benefits of the injections and radiofrequency treatment procedures are temporary and should be repeated. Likewise, Dr. Schmidt apparently attributed claimant's symptoms to her work injury when he prescribed medication. There was nothing about claimant's travel to visit her father that gives rise to a finding of an intervening injury. Furthermore, claimant's efforts to obtain additional treatment predate her employment with Fairfield Inn. The ALJ obviously found claimant's testimony to be credible, as he awarded benefits. The Board agrees with the ALJ's findings and conclusions.

**WHEREFORE**, it is the finding, decision and order of the Board that the Order of Administrative Law Judge Bryce D. Benedict dated December 22, 2005, is affirmed.

**IT IS SO ORDERED.**

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<sup>1</sup>P.H. Trans., Cl. Ex. 1 at 2.

<sup>2</sup>P.H. Trans. at 50.

<sup>3</sup>*Id.* at 47.

Dated this \_\_\_\_\_ day of March, 2006.

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BOARD MEMBER

c: Jeff K. Cooper, Attorney for Claimant  
Patricia A. Wohlford, Attorney for Respondent and its Insurance Carrier  
Bryce D. Benedict, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director